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FILED
U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY:

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DUSTIN ERHARDT,

Defendant.

INDICTMENT

COUNTS 1-5: 18 U.S.C. § 1343
(Wire Fraud)

Case: 2:20-cr-00045
Assigned To : Waddoups, Clark
Assign. Date : 1/30/2020
Description:

The Grand Jury charges:

I. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. The defendant Dustin Erhardt ("ERHARDT") resided in Beaverton, Oregon.
2. ERHARDT began working as a contractor for Dark Energy, a company located in Provo, Utah on March 27, 2017. His primary job was to do marketing for Dark Energy. ERHARDT worked remotely and never met the owner of Dark Energy in person. Part of ERHARDT's responsibilities were to manage Dark Energy's Amazon seller account.
3. Dark Energy makes military grade power products, including the Poseidon Device, which is a portable charger that is waterproof and crushproof. The Poseidon Device retails for \$99.99. One of the places Dark Energy sells their products is Amazon.com. Dark Energy

keeps its products at a warehouse in Salt Lake City, Utah that is managed by Agile Supply Chain Strategies (“ASCS”).

4. Beginning in or around July 6, 2017, and continuing until on or about December 8, 2017, ERHARDT was involved in a scheme to defraud Dark Energy by using his position and access to Dark Energy’s Amazon seller account to steal money and property from Dark Energy.

II. THE SCHEME AND ARTIFICE TO DEFRAUD

5. From on or about July 6, 2017 to on or about December 8, 2017, in the Central Division of the District of Utah and elsewhere, ERHARDT knowingly devised and intended to devise a scheme and artifice to defraud his employer Dark Energy, and to obtain money and property by means of false and fraudulent pretenses, representations, promises, and omissions of material facts.
6. In executing and attempting to execute the scheme and artifice to defraud, and in furtherance thereof, ERHARDT knowingly used Dark Energy’s confidential information without authorization, including login information to its warehouse to ship the company’s products to himself. He would then sell the company’s products without authorization on his own Amazon.com account, with the sale proceeds being paid to himself. In logging into Dark Energy’s account at ASCS, without authorization, and causing ASCS to divert shipments of Dark Energy’s Poseidon devices for his own personal benefit, ERHARDT used and caused to be used interstate wire communications, in violation of 18 U.S.C. § 1343 (Wire Fraud).

III. OBJECT OF THE SCHEME AND ARTIFICE TO DEFRAUD

7. It was the object of the scheme and artifice to defraud for ERHARDT to obtain money and property from his employer through false statements, misrepresentations, deception, and omissions of material facts, and false pretenses, in that ERHARDT used the company's login information to its warehouse, to cause the company's products to be shipped to himself or to Amazon Fulfillment Centers for sale on his personal Amazon account rather than Dark Energy's Amazon account. He would then sell the company's products without authorization on his own Amazon.com account named Camplife/ODEO, with the proceeds of the sales being paid to himself.
8. ERHARDT stole at least 1,102 Poseidon Devices from Dark Energy through his scheme.

IV. MANNER AND MEANS OF THE SCHEME AND ARTIFICE TO DEFRAUD

9. In execution and furtherance of the scheme and artifice to defraud, ERHARDT employed the following manner and means:
10. On June 3, 2017, ERHARDT registered an Amazon merchant account under the names "Camplife" and "ODEO SHOP". The email address he listed on his seller account was hellodarkenergy@gmail.com. This email address was not a company email address and Dark Energy was unaware the ERHARDT was using this email address.
11. Between July 6, 2017 and October 19, 2017, ERHARDT used Dark Energy's login information to their account at ASCS without authorization and caused ASCS to ship to his home address in Beaverton, Oregon, 9 unauthorized shipments of Poseidon Units, totaling 242 Poseidon Units. He listed the Poseidon Units on his Amazon merchant account, and caused electronic payment to his checking account at SunTrust Bank when the Units sold.

12. Between on or about November 14, 2017 and up to on or about November 27, 2017, ERHARDT used Dark Energy's login information to their account at ASCS without authorization and caused ASCS to ship Dark Energy's products to Amazon fulfillment centers for fulfillment under his personal account named Camplife/ODEO.
13. When the company discovered that there were unauthorized sellers on Amazon who somehow acquired the Poseidon devices, ERHARDT offered to find out who the unauthorized sellers were in an effort to conceal his theft from the company. When ERHARDT was laid off in December 2017, Dark Energy was still unaware that ERHARDT was the unauthorized Amazon seller. He continued to sell the remaining Poseidon Devices that he had caused to be diverted to Amazon Fulfillment Centers for fulfillment under his personal Amazon account named Camplife/ODEO, and received electronic payments in his bank account from the sale of the devices as late as January 2, 2018.

COUNTS 1-5
18 U.S.C. § 1343
(Wire Fraud)

The allegations set forth above are incorporated herein by reference and realleged as though fully set forth herein.

On or about the dates listed below, in the Central Division of the District of Utah and elsewhere, the defendant,

DUSTIN ERHARDT,

defendant herein, having devised and intended to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, promises, and omissions of material facts, for the purpose of executing said scheme and artifice

to defraud, did cause to be transmitted by means of wire communication certain writings, signs and signals, that is, an interstate wire, in instances including but not limited to each count below:

COUNT	DATE (on or about)	WIRE COMMUNICATIONS
1	11/14/2017	ERHARDT used Dark Energy's login information to access its account at ASCS without authorization and caused ASCS to ship 60 of Dark Energy's Poseidon Units to an Amazon Fulfillment Center in Joliet, Illinois for the benefit of his personal Amazon seller account named Camplife/ODEO.
2	11/15/2017	ERHARDT used Dark Energy's login information to access its account at ASCS without authorization and caused ASCS to ship 200 of Dark Energy's Poseidon Units to an Amazon Fulfillment Center in Joliet, Illinois for the benefit of his personal Amazon seller account named Camplife/ODEO.
3	11/16/2017	ERHARDT used Dark Energy's login information to access its account at ASCS without authorization and caused ASCS to ship 140 of Dark Energy's Poseidon Units to an Amazon Fulfillment Center in Dallas, Texas for the benefit of his personal Amazon seller account named Camplife/ODEO.
4	11/21/2017	ERHARDT used Dark Energy's login information to access its account at ASCS without authorization and caused ASCS to ship 240 of Dark Energy's Poseidon Units to an Amazon Fulfillment Center in Dallas, Texas for the benefit of his personal Amazon seller account named Camplife/ODEO.
5	11/27/2017	ERHARDT used Dark Energy's login information to access its account at ASCS without authorization and caused ASCS to ship 220 of Dark Energy's Poseidon Units to an Amazon Fulfillment Center in Dallas, Texas for the benefit of his personal Amazon seller account named Camplife/ODEO.

All in violation of 18 U.S.C. § 1343 (Wire Fraud).

NOTICE OF INTENT TO SEEK FORFEITURE

Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction of any offense charged herein in violation of 18 U.S.C. § 1343, the defendant(s) shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the scheme to defraud. The property to be forfeited includes, but is not limited to, the following:

- A money judgment equal to the value of any property, real or personal, constituting or derived from proceeds traceable to the scheme to defraud and not available for forfeiture as a result of any act or omission of the defendant for one or more of the reasons listed in 21 U.S.C. § 853(p).
- Substitute property as allowed by 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p)

A TRUE BILL:

151
FOREPERSON OF THE GRAND JURY

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